

6272-0017-3

"RESPONSE UNDER 37 CFR 1.116-
EXPEDITED PROCEDURE EXAMINING
GROUP 3724"

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :
DETLEF ALBIN ET AL : EXAMINER: DEXTER
SERIAL NO: 08/650,709 :
2ND CPA FILED: AUGUST 10, 1999 : GROUP ART UNIT: 3724
FOR: DEVICE AND A PROCESS FOR :
COARSELY GRINDING
HYDROUS POLYMER GELS

#33/Req.
for
Reconcl.
(N.E.)
8/25/00

REQUEST FOR RECONSIDERATION

RECEIVED

AUG 6 2000

Group 3700

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Office Action dated June 6, 2000, Applicants request the reconsideration of the Final Rejection of Claims 17, 19, 21, 22, 26 and 27, for the reasons set forth below.

All of the claims have been finally rejected for the same reasons as set forth in the previous rejection of October 4, 1999. As set forth in the response filed on December 29, 1999, Applicants respectfully traverse all of these rejections, and the Examiner's attention is again directed to the arguments set forth at that time.

Specifically, with regard to the rejections applied against the sole independent Claim 26, it is noted that Applicants had pointed out that there is no description in Johnson et al of the driving of the anvil roll 26, nor is there any description that the conveyors 14 and 18 which support and compress the wool blanket 16 are driven. Therefore, the "conveying device" which conveys the layer of material to the nip between the cutting roll 28 and the anvil roll 26 in Johnson et al is the cutting roll itself, which certainly conveys the wool

blanket at the same speed as its own circumferential speed, and so there is no disclosure in this reference of a conveying device driven to convey the layer of gel to the nip at a speed sufficiently less than the circumferential speed of the cutting roll to avoid congestion.

Conversely, if one were to say that the conveying device in Johnson et al was the conveyor belts 18, since these belts merely passively respond to the advancement of the blank 16 by the drive of the cutting roller 28, they convey the blanket to the nip at the same speed as the circumferential speed of the cutting roller, and also lack the aforementioned limitation of Claim 26.

As for the rejection based upon Heywood in view of Williams, it has previously been explained that Heywood fails to disclose a conveyor which advances a product to the cutting roll at a speed less than the speed of the cutting roll, and that this would indeed be contrary to the teachings of Heywood, since such a speed differential would tend to shift the layers of leaves as they are being cut. As for Williams, the Examiner has not alleged that this reference even teaches a conveyor driven at a speed different from that of a cutter. Applicants therefore again respectfully submit that the Examiner has failed to put forth a *prima facie* case of obviousness of Claim 26 or of any of its dependent claims.

Applicants further note that the Examiner has not responded to the substance of the arguments noted above. Instead, the "Response to Arguments" portion of the Final Rejection only responded to the arguments based upon the rejection under 35 U.S.C. §112. Applicants therefore respectfully submit that the Examiner has failed to support any *prima facie* case of unpatentability based upon the above-noted references.

Regarding the rejection under 35 U.S.C. §112, first paragraph, it is noted that the objected to portion of the claims (e.g., that the conveying device is driven separately from the cutting roll) was deleted in the amendment filed on December 29, 1999.

Regarding the rejection under 35 U.S.C. §112, second paragraph, Applicants note that the "structural cooperation" between the conveying device and the remainder of the structure is not the workpiece, i.e., the gel, but is instead the recitation that the conveying device is driven to convey the gel to the nip. It is the correlation of the conveyor function to the nip which provides the required inter-relationship of the elements of the claim. Claim 26 is not a mere statement of the characteristics of the workpiece (as in the cases found in MPEP §2115), but instead defines a claim characteristic by inferential reference to its relation to an environmental element. This has been explicitly permitted in OrthoKinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986); MPEP §2173.05(b).

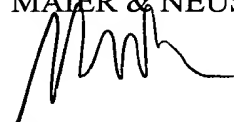
Finally, the Examiner has both objected to the drawings as failing to disclose the claimed "depressions," and has disapproved Figure 5 which illustrates the claimed "depressions." The Examiner states that Applicants did not provide a basis in the original disclosure for the specific back-up roll configuration, but Applicants had already explained that line 12 of page 11 describes "notches" in the surface of the back-up roll to guide the edges of the cutting elements. Proposed Figure 5 shows nothing more than this.

In summary, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of unpatentability, or to justify the previously applied prior art rejections in light of the arguments raised in the last response. Applicants also respectfully submit that the rejections based upon 35 U.S.C. §112 are either moot or improper. The present application is

therefore believed to be in a condition for allowance, and so an indication of allowability is respectfully submitted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Robert T. Pous
Registration No. 29,099
Attorneys of Record



22850

(703) 413-3000
Fax #: (703) 413-2220
GJM/RTP:cct

I:\atty\RTP\62720017-am.wpd

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.

ATTORNEYS AT LAW

FOURTH FLOOR

1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VIRGINIA 22202 U.S.A.

(703) 413-3000

(703) 413-2220 FACSIMILE

OBLONPAT@OBLON.COM

WWW.OBLON.COM

PATENT, TRADEMARK AND COPYRIGHT LAW
AND RELATED FEDERAL AND ITC LITIGATION

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WASHINGTON, DC 20231

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Re: U.S. Application
Serial No.: 08/650,709
2nd CPA Filed: August 10, 1999
Applicant: DETLEF ALBIN ET AL
Title: DEVICE AND A PROCESS FOR COARSELY
GRINDING HYDROUS POLYMER GELS

Commissioner:

Attached hereto for filing are the following papers:

REQUEST FOR RECONSIDERATION

Our check in the amount of \$ 0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. A duplicate of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Registration No. 25,599
Robert T. Pous
Registration No. 29,099
Attorneys of Record

NORMAN F. OBLON
MARVIN J. SPIVAK
C. IRVIN McCLELLAND
GREGORY J. MAIER
ARTHUR I. NEUSTADT
RICHARD D. KELLY
JAMES D. HAMILTON
ECKHARD H. KUESTERS
ROBERT T. POUS
DAVID J. KERA
CHARLES L. GHOLZ
WILLIAM E. BEAUMONT
JEAN-PAUL LAVALLEYE, PH.D.
JEFFREY H. KAUFMAN
BRIAN D. ANDERSON
ROBERTA S. BREN
STEPHEN G. BAXTER, PH.D.
RICHARD L. TREANOR, PH.D.
STEVEN P. WEIROUCH
JOHN T. GOOLKASIAN*
RICHARD L. CHINN, PH.D.
STEVEN E. LIPMAN
CARL E. SCHLIER
P. JAY HINES
JAMES J. KULBASKI
RICHARD A. NEIFELD, PH.D.
J. DEREK MASON, PH.D.
SURINDER SACHAR
JONATHAN HUDIS
JEFFREY B. MCINTYRE*
WILLIAM T. ENOS*
MICHAEL E. MCCABE, JR.*
STEVEN C. TABACKMAN
JORDAN S. WEINSTEIN
BRADLEY D. LYTLE
MICHAEL R. CASEY, PH.D.

GERALD J. MOSSINGHOFF

MILTON STERMAN
SAMUEL H. BLECH*
JOHN O. TRESANSKY*
ALTON D. ROLLINS
JAMES R. BOLER*
HARRIS A. PITLICK*
RAYMOND F. CARDILLO, JR.
ROBERT W. HAHN, PH.D.
NEAL GOLDFARB

MASAYASU MORI**

FRANK J. WEST*
KATHLEEN COONEY-PORTER*
ANDREW M. OLLIS
MARGO LIVESAY, PH.D.*
CORWIN P. UMBACH, PH.D.
RON MYERS*
W. TODD BAKER*
DAVID D'ZURILLA
JOSEPH A. SCAFETTA
CARLOS R. VILLAMAR
ROBERT C. MATTSOHN
MANDY M. PETROCELLI
EDWIN D. GARLEPP
ALEXANDER E. GASSER*
KETH DITTHAVONG
CHRISTOPHER D. WARD
THOMAS M. CUNNINGHAM, PH.D.
CLAYTON W. THOMPSON, II
MICHAEL J. LEONARD*
KENNETH T. CUCCINELLI, II
THOMAS J. FISHER
ROBERT C. NISSEN*
GAY ANN SPAHN*
AKIHIRO YAMAZAKI*
AMBER A. TRAIN*
FREDERICK D. VASTINE, PH.D.*
JOHN K. PIKE, PH.D.*
JAMES J. KELLY, PH.D.*
DAVID A. BILODEAU*
STAMATIOS MYLONAKIS, PH.D.*
PHILIPPE J.C. SIGNORE, PH.D.*
KEVIN A. NORDBERG*
THOMAS A. BLINKA, PH.D.*
DANIEL J. PEREIRA, PH.D.*
RONALD A. RUDDER, PH.D.*
JOHN F. T. CONROY, PH.D.*

* BAR MEMBERSHIP OTHER
THAN VIRGINIA
* JAPANESE PATENT ATTORNEY
* REGISTERED PATENT AGENT